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SEA

SERVICE DATE - APRIL 30, 2004

**SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC 20423**

**ENVIRONMENTAL ASSESSMENT**

**STB DOCKET NO. AB-6 (Sub-No. 410X)**

**Burlington Northern and Santa Fe Railway Company– Abandonment and Discontinuance of  
Service Exemption – in Thurston County, WA**

**BACKGROUND**

In this proceeding, Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 to abandon and discontinue service over 5.8 miles of rail line extending from Milepost 3.27, in Quadlock, to Milepost 9.07, in Olympia, in Thurston County, WA. A map depicting the rail line in relationship to the area served is appended to the report. If the notice becomes effective, BNSF will be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way.

**DESCRIPTION OF THE LINE**

According to BNSF, the majority of the right-of-way (ROW) was acquired by the Northern Pacific Railway Company (NP) and the Tacoma Olympia and Grays Harbor Railroad Company in 1890. In 1970, NP merged with the Great Northern Railway Company and the Chicago Burlington and Quincy Railroad Company to become the Burlington Northern Railroad Company (BN), and in 1995, BN merged with the Atchison Topeka and Santa Fe Railway Company to become BNSF. According to BNSF, there has been no traffic on the line for at least two years.

The line is located within the Olympia Metropolitan Statistical Area, which includes the cities of Lacey and Olympia. BNSF describes the area as generally flat to hilly, and the width of the ROW varies from 16 to 100 feet from the centerline of track, except for the station ground property. Abandonment of the line will allow for the elimination of nine public crossings. According to BNSF, there are no bridges or structures on the rail line that are 50 years of age or older.

Upon receiving authority to abandon the line, BNSF intends to remove the remaining rail, track material, and crossties; however, the roadbed will be left intact.

## **ENVIRONMENTAL REVIEW**

BNSF submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. The applicant served the environmental and historical reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's environmental rules [49 CFR 1105.7(b)]. SEA has reviewed and investigated the record in this proceeding.

The National Geodetic Survey (NGS) has advised SEA that ten geodetic station markers have been identified that may be affected by the proposed abandonment.

The U.S. Army Corps of Engineers, Seattle District (USACE), had not responded to the reports at the time this document was prepared. SEA recommends a consultation condition requiring that BNSF contact the USACE prior to commencement of any salvage activities, in order to determine whether a Department of the Army permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) would be required.

After reviewing the Federal Emergency Management Agency (FEMA) floodplain maps, the City of Lacey stated that the only location where the proposed abandonment could have an impact on the floodplain is where it crosses Mullen Road between Pattison Lake and Long Lake. Accordingly, SEA recommends that BNSF consult with the City of Lacey's water resources engineer, Eric Hielema, P.E., prior to any salvage activities.

The State of Washington, Department of Ecology (WDE), concluded that the proposed abandonment, as outlined by the applicant, would not involve the discharge of dredged or fill material in waters of the United States or soil disturbing activity. Accordingly, the WDE stated that a National Pollution Discharge Elimination System permit under Section 402 of the Clean Water Act (33 U.S.C. 1342) would not be required.

The United States Department of Agriculture, Natural Resources Conservation Service, informed SEA that there may be prime agricultural soils adjacent to the proposed project area but stated that the proposed abandonment would not impact these soils. Accordingly, no mitigation measures were suggested.

The United States Department of the Interior, Fish and Wildlife Service, Western Washington Fish and Wildlife Field Office (USFWS), has advised SEA that the proposed abandonment is within the range of two bald eagle (Haliaeetus leucocephalus) nesting territories. The USFWS states that nesting activities occur from January 1 to August 15. Wintering bald eagles may occur in the vicinity of the proposed project from October 31 to March 31. To address the concerns raised by the USFWS, SEA

recommends a consultation condition requiring that BNSF contact the USFWS prior to commencement of any salvage activities on this project.

According to the USFWS, the mazama pocket gopher (Thomomys mazama)<sup>1</sup> is listed as a Candidate for possible listing as either a threatened or endangered species. Therefore, SEA recommends that BNSF contact the USFWS prior to the initiation of salvage activities to determine the status of the mazama pocket gopher and evaluate any possible impacts on this species.

The USFWS submitted a list of species of concern that have been documented in the county where the proposed project is located. The following species or their habitat could be located on or near the proposed project site:

California wolverine (Gulo gulo luteus)  
Cascades frog (Rana cascadae)  
Coastal cutthroat trout (Oncorhynchus clarki clarki)  
Long-eared myotis (Myotis evotis)  
Long-legged myotis (Myotis volans)  
Northern goshawk (Accipiter gentilis)  
Oregon vesper sparrow (Pooecetes gramineus affinis)  
Olive-sided flycatcher (Contopus cooperi)  
Pacific fisher (Martes pennanti pacifica)  
Pacific lamprey (Lampetra tridentata)  
Pacific Townsend's big-eared bat (Corynorhinus townsendii townsendii)  
River lamprey (Lampetra ayresi)  
Slender-billed, white breasted nuthatch (Sitta carolinensis aculeata)  
Tailed frog (Ascaphus truei)  
Valley silverspot (Speyeria zerene bremeri)  
Van Dyke's salamander (Plethodon vandykei)  
Western gray squirrel (Sciurus griseus griseus)  
Aster curtus (White-top aster)

In addition, the USFWS states that the northwestern pond turtle (Clemmys marmorata marmorata) is a species of concern that has occurred within a 1-mile radius of the proposed project site. Accordingly, SEA recommends that BNSF consult with the USFWS prior to commencement of any salvage activities on this project.

The State of Washington, Department of Fish and Wildlife (WDFW), submitted a "Habitats and Species Report" and stated that the proposed project may require further field inspection. Accordingly,

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<sup>1</sup> This includes ssp. couchi, glacialis, louiei, melanops, pugetensis, tumuli, and yelmensis.

SEA recommends that BNSF contact the WDFW Habitat Program Manager for Thurston County (Steve Kalinowski at 360-249-4628) prior to commencement of any salvage activities.

According to BNSF, there are no known hazardous waste sites or hazardous material spill sites on the subject ROW.

BNSF states that the line is not within any wildlife sanctuaries, National or State parks or forests. The Washington State Department of Natural Resources (DNR) stated that the proposed project would not impact DNR-managed lands, and the Washington State Parks and Recreation Commission commented that the nearest Washington State Park is Tolmie, which is located several miles away from the proposed project.

BNSF states that the ROW may be suitable for public use, such as a recreational trail. On April 5, 2004, the City of Lacey (Lacey) and the City of Olympia (Olympia), WA, filed a formal request for the issuance of a public use condition and a request for interim trail use for the portion of the line running from Milepost 3.27 to Milepost 6.73.<sup>2</sup> According to Lacey and Olympia, the line is part of the Urban Trail Plan adopted by Lacey, Olympia, and Tumwater, and would provide an important trail link providing key east-west connections to the urban and regional trails system. The requirements for public use and trail use are discussed below.

### **The 1995 Trails Act and the Board's Environmental Review**

The Trails Act, 16 U.S.C. 1247(d), gives interested parties the opportunity to negotiate voluntary agreements to use, for recreational trails, railroad right-of-way that otherwise would be abandoned. The Trails Act is intended to preserve railroad rights-of-way for future railroad use.

Under the Trails Act and the Board's implementing procedures (49 CFR 1152.29), a state or local government or private organization can request a trail condition (known as a Certificate of Interim Trails Use (CITU))<sup>3</sup> to begin the trail use process on a line approved for abandonment if the rail sponsor agrees to railbanking and provides a statement of willingness to assume responsibility for managing the right-of-way, for any legal liability arising out of its use, and for the payment of taxes. If the railroad agrees to negotiate, and no offer of financial assistance to continue rail freight service on the line is received, the Board imposes a NITU, which gives the rail sponsor time to negotiate an agreement with

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<sup>2</sup> Lacey and Olympia claim that BNSF abandoned the portion of the line running from Milepost 6.73 to Milepost 9.07 in 1987, and state that the property and easements associated with this section have since been acquired by Olympia for a trail system.

<sup>3</sup> This process allows railroad rights-of-way to be preserved by allowing interim trail use on lines that otherwise would be abandoned. In exempt abandonment procedures, it is a notice of interim trails use (NITU) that is issued rather than a CITU.

the railroad for interim trail use/railbanking. The Board has no involvement in the negotiations and does not analyze, approve, or set the terms of trail use agreements. The Board is not authorized to regulate activities over the actual trail. In short, the Board's jurisdiction under the Trails Act is ministerial.

The Board does not conduct an environmental review of a potential conversion to interim rail use/railbanking because it does not exercise sufficient Federal control so as to qualify as a major Federal action under NEPA. Only major actions by Federal agencies require environmental review.

## **HISTORIC REVIEW**

BNSF submitted an historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)] and served the report on the State of Washington's Office of Community Development, Office of Archaeology and Historic Preservation (the State Historic Preservation Office or SHPO), pursuant to 49 CFR 1105.8(c). The SHPO has submitted comments stating that no historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) would be affected by the proposed abandonment and discontinuance of service. (Log: 112502-11-STB). SEA has reviewed the report and the information provided by the SHPO and concurs with the SHPO's comments.

In the event that archaeological or historical materials are discovered during the proposed project activities, the SHPO requests that the railroad discontinue work in the immediate vicinity, secure the area, and notify both the SHPO and the concerned tribes.

The Nisqually Indian Community owns land that is in the vicinity of the proposed abandonment. Accordingly, SEA has contacted the tribe to inform it of the proposed project and has added the Nisqually Indian Community to the service list.

## **CONDITIONS**

SEA recommends that the following seven environmental conditions be placed on any decision granting abandonment authority:

1. The National Geodetic Survey (NGS) has identified ten geodetic station markers that may be affected by the proposed abandonment. Therefore, BNSF shall notify NGS at least 90 days prior to salvage activities in order to plan for their relocation.
2. SEA recommends a consultation condition requiring that BNSF contact the U.S. Army Corps of Engineers, Seattle District, prior to commencement of any salvage activities, in order to determine whether a Department of the Army permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) would be required.

3. The City of Lacey has expressed concerns about the floodplain, where the line crosses Mullen Road between Pattison Lake and Long Lake. Accordingly, SEA recommends that BNSF consult with the City of Lacey's water resources engineer, Eric Hielema, P.E., prior to any salvage activities.
4. The U.S. Fish and Wildlife Service, Western Washington Fish and Wildlife Field Office (USFWS), has expressed concerns about the project's potential impacts on the bald eagle, as well as species of concern that have been documented in Thurston County. Accordingly, SEA recommends that BNSF consult with the USFWS prior to commencement of salvage activities, in order to identify the appropriate mitigation measures that may be warranted.
5. The mazama pocket gopher (Thomomys mazama) is a Candidate for possible listing as either a threatened or endangered species. Prior to any salvage activities, BNSF shall contact the U.S. Fish and Wildlife Service (USFWS) to determine the protected status of the mazama pocket gopher and evaluate any possible impacts on this species.
6. The State of Washington, Department of Fish and Wildlife (WDFW), submitted a "Habitats and Species Report" and stated that the proposed project may require further field inspection. Accordingly, SEA recommends that BNSF contact the WDFW Habitat Program Manager for Thurston County (Steve Kalinowski at 360-249-4628) prior to commencement of any salvage activities.
7. The State of Washington's Office of Community Development, Office of Archaeology and Historic Preservation (the State Historic Preservation Office or SHPO), states that no historic properties would be affected by the proposed project. However, if any archaeological or historical materials are discovered during the project activities, BNSF shall: 1) discontinue work in the immediate vicinity, 2) secure the area, and 3) notify both the SHPO and the concerned tribes.

## **CONCLUSIONS**

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

## **PUBLIC USE**

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition

(49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

### **TRAILS USE**

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the petition for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

### **PUBLIC ASSISTANCE**

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

### **COMMENTS**

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Christa Dean, who prepared this environmental assessment. Environmental comments may also be filed electronically on the Board's web site, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB-6 (Sub No. 410X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact Christa Dean, the environmental contact for this case, by phone at (202) 565-1606, fax at (202) 565-9000, or e-mail at [deanc@stb.dot.gov](mailto:deanc@stb.dot.gov).

Date made available to the public: April 30, 2004.

**Comment due date: May 17, 2004.**

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams

Secretary

Attachment



